



Decision

Matter of: BRC, Inc.
File: B-257491
Date: October 11, 1994

Thomas J. Brennan for the protester.
Jeff Nichols, for Spacesaver Concepts, Inc., an interested party.
Thomas F. Brown, Department of the Air Force, for the agency.
Linda S. Lebowitz, Esq., and Michael R. Golden, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

Agency may issue a delivery order for equipment and installation on the General Services Administration Federal Supply Schedule on the basis of a price reduction received after initial quotations were submitted where there is no evidence in the record that the agency improperly disclosed a competitor's initial lower price to the proposed awardee.

DECISION

BRC, Inc. protests the proposed issuance of a delivery order to Spacesaver Concepts, Inc. under request for quotations (RFQ) No. F05604-94-T-5063, issued by the Department of the Air Force for the purchase of materials and the installation of movable storage bin systems at Peterson Air Force Base, Colorado. The agency proposes to issue the delivery order to Spacesaver under a General Services Administration (GSA) non-mandatory Federal Supply Schedule (FSS) contract. The protester basically contends that the agency improperly disclosed its price to Spacesaver and improperly accepted a subsequent price reduction from Spacesaver.

We deny the protest.

The RFQ was issued orally on December 23, 1993, to four firms; including the protester and Spacesaver, which offered equipment on the FSS which could satisfy the agency's requirements. Firms were requested to submit prices for equipment and installation. The delivery order would be issued to the low-priced firm on the basis of its total quoted price for equipment and installation.

Relevant to this protest, on April 7, 1994, BRC submitted the low total price. Spacesaver submitted the second-low total price. In its quotation, Spacesaver noted that its price for installation included the cost of unfinished plywood for decking materials.

On May 13, in response to a request from the agency for additional technical information, the protester confirmed that its equipment would satisfy the agency's requirements at the price submitted. On the same day, Spacesaver notified the agency that due to a recent bulk purchase of plywood, it was reducing its price for installation, thereby reducing its total price by approximately 14 percent, which was approximately 1 percent less than the protester's total price.

On May 23, the agency notified the protester of its intention to issue a delivery order for equipment and installation to Spacesaver, the low-priced firm, under its FSS contract. This protest followed.

The protester does not dispute that under an FSS contract, a firm may offer a price reduction to an agency. Rather, the protester basically alleges that because Spacesaver reduced its total price to an amount which was just less than the protester's previously low total price, the agency must have improperly disclosed this price to Spacesaver, thereby inducing Spacesaver to reduce its price. As a result, the protester maintains that the agency should not issue the delivery order to Spacesaver as the low-priced firm.

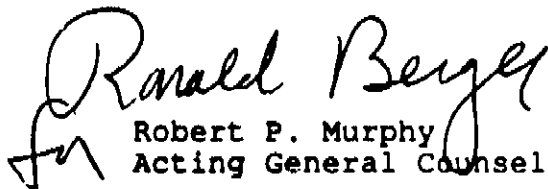
Although the protester alleges that the agency improperly disclosed its total price to Spacesaver, there is no evidence in the record to support this allegation. In this regard, the agency has provided statements from the three contracting officials involved in this acquisition. Each individual states that he did not discuss pricing information with any firms competing for the issuance of the delivery order, including Spacesaver. In addition, there is no evidence in the record that at the time Spacesaver reduced its price the agency had announced its intention to issue a delivery order to the protester as the low-priced

firm or otherwise announced the ranking of firms on the basis of price. In the absence of any evidence to support the protester's allegation, we cannot conclude that the agency improperly disclosed the protester's price to Spacesaver. See, e.g., Barntsen, Inc., B-242704, May 13, 1991, 91-1 CPD ¶ 461. Since an agency may receive and consider subsequent quotations from those who responded initially to an RFQ under these circumstances, see Amerif Corp., B-240884, Dec. 21, 1990, 90-2 CPD ¶ 516; Kavouras, Inc., B-220058, Dec. 23, 1985, 85-2 CPD ¶ 703, the agency properly considered Spacesaver's price reduction in determining Spacesaver to be the low-priced firm.¹

Finally, in its comments to the agency's administrative report, the protester states that it has reduced its total price to an amount which is less than Spacesaver's total price. The protester argues that the agency should accept its price reduction and issue the delivery order to it as the low-priced firm. We disagree. The issuance of the delivery order to the protester at this time would be as a result of an impermissible auction. At the time the protester reduced its total price, it clearly knew Spacesaver's total price and that the agency intended to issue the delivery order to Spacesaver. Accordingly, the issuance of the delivery order to the protester under these circumstances would not be proper. See Dictaphone Corp., B-254920.2, Feb. 7, 1994, 94-1 CPD ¶ 75.

For the above reasons, we have no basis to question the agency's decision to issue the delivery order to Spacesaver as the low-priced firm.

The protest is denied.


 Robert P. Murphy
 Acting General Counsel

¹While the protester questions the validity of the underlying reason for Spacesaver's price reduction--that a bulk purchase of plywood allowed Spacesaver to reduce its installation price--we do not focus on the reason for a reduction since, under an FSS contract, a firm may offer a price reduction at any time and by any method without prior or subsequent approval by GSA which administers the contract. See Whitaker Bros. Business Machs., Inc., B-237121, Jan. 17, 1990, 90-1 CPD ¶ 62.